

HOUSE BILL 3354
By Turner M

AN ACT to amend Tennessee Code Annotated, Title 50, to
enact the "Fair Share Health Care Fund Act of
2006".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, is amended by adding Sections 2 through 9 of this act as a new chapter.

SECTION 2. The title of this act is, and may be cited as, the "Fair Share Health Care Fund Act of 2006".

SECTION 3. As used in this act, unless the context otherwise requires:

(1) "Employee" means an individual employed full-time or part-time directly by an employer.

(2) "Employer" means an employer, whether for-profit or nonprofit, with ten thousand (10,000) or more employees in the state. "Employer" does not include the federal government, the state, another state, or a political subdivision of the state or another state.

(3) "Fund" means the Fair Share Health Care Fund.

(4) "Health care expenditures" means the amount paid by an employer to provide health care benefits or reimburse employees for their health care costs, including but not limited to payments for medical care, prescription drugs, vision care, medical savings accounts, and any other costs to provide health benefits as defined in §213(D) of the Internal Revenue Code.

SECTION 4.

(a)

(1) There is created a special agency account in the state general fund to be known as the "Fair Share Health Care Fund" hereinafter referred to in this part as the "fund."

(2) Any fund balance remaining unexpended at the end of a fiscal year in the fund shall be carried forward into the subsequent fiscal year.

(3) Interest accruing on investments and deposits of the fair share health care fund shall be carried forward into the subsequent fiscal year.

(4) Moneys in the fund shall be invested by the state treasurer in accordance with the provisions of §9-4-603. The fund shall be administered by the commissioner of labor and workforce development.

(5) Moneys in the fund shall only be expended and obligated in accordance with appropriations made by the general assembly in accordance with the provisions of this act and shall be subject to audit by the comptroller of the treasury.

(b) The purpose of the fund is to help finance coverage for uninsured workers. The fund may be used to support the operations of TennCare or to help uninsured workers and their dependents obtain health care or coverage through another state program. The fund shall consist of:

(1) Any revenue received from payments made by employers under this act; and

(2) Any other money from any other source accepted for the benefit of the fund.

(c) The fund may be used to provide subsidies for "approved health coverage options," to be designated by the commissioner of commerce and insurance which shall:

(1) Identify specific health coverage plans for workers and dependents, including but not limited to, those workers whose employers have paid into the Fair Share Health Care Fund. These options may include TennCare or private insurance.

(2) Ensure that the coverage is affordable, accessible and meaningful.

SECTION 5.

(a) On January 1, 2007, and annually thereafter, an employer shall submit on a form and in a manner approved by the commissioner of labor and workforce development:

(1) The employer's definition of full-time employee and part-time employee;

(2) The number of full-time and part-time employees of the employer in the state as of January 1 of the previous year;

(3) The number of full-time and part-time employees eligible to receive health care expenditures, and the number of full-time and part-time employees receiving health care expenditures from the employer;

(4) The amount spent by the employer in the previous calendar year on health care expenditures for employees in the state; and

(5) The percentage of payroll that was spent by the employer in the previous calendar year on health care expenditures for employees in the state.

(b) The information required shall:

(1) Be designated in a report signed by the principal executive officer or an individual performing a similar function;

(2) Include an affidavit under penalty of perjury that the information required under subsection (a) was reviewed by the signing officer and was based on the officer's knowledge and does not contain any untrue statement of a material fact or omit a material fact necessary to make the statement; and

(3) When calculating the percentage of payroll under subsection (a)(5) or the amount spent on health care under subsection (a)(4), an

employer may exempt wages and salaries paid to an employee who is enrolled in or eligible for TennCare or an employee who is enrolled in or eligible for Medicare.

SECTION 6.

On or before March 15 of each year, the commissioner of labor and workforce development shall report to the governor and to the general assembly on:

- (1) The name of each nonprofit and for-profit employer with ten thousand (10,000) or more employees in the state;
- (2) The employer's definition of full-time employee and part-time employee;
- (3) The number of full-time and part-time employees;
- (4) The number of full-time and part-time employees eligible to receive health care benefits or expenditures;
- (5) The number of full-time and part-time employees receiving health care benefits or expenditures from the employer;
- (6) The source of health care benefits or expenditures for those eligible full-time and part-time employees not receiving health care expenditures through an employer subject to reporting under this chapter; and
- (7) The percent of total wages and salaries each nonprofit and for-profit employer spends on health care expenditures.

SECTION 7.

(a) With the exception of those wages and salaries which are excludable pursuant to Section 5, subsection (b)(3), an employer that is organized as a nonprofit organization and does not spend at least ten percent (10%) of the employer's gross payroll on health care expenditures, shall pay to the commissioner of labor and workforce development an amount equal to the difference between what the employer

spends for health care expenditures and an amount equal to ten percent (10%) of total wages and salaries similarly-sized non-profit employers in the state pay for health care expenditures.

(b) With the exception of those wages and salaries which are excludable pursuant to Section 5, subsection (b)(3), an employer that is organized as a for-profit organization and does not spend at least at least ten percent (10%) of the employer's gross payroll on health care expenditures, shall pay to the commissioner of labor and workforce development an amount equal to the difference between what the employer spends for health care expenditures and an amount equal to ten percent (10%) of total wages and salaries similarly-sized for-profit employers in the state pay for health care expenditures.

(c) An employer may not deduct any payment made under subsection (a) or (b) of this section from the wages of an employee.

(d) An employer shall make the payment required under this section to the commissioner of labor and workforce development on a periodic basis as determined by such commissioner.

SECTION 8.

(a) Failure to report in accordance with Section 5 shall result in the imposition by the commissioner of labor and workforce development of a civil penalty of one thousand dollars (\$1000) for each day that the report is not timely filed. The penalties shall be deposited in the Fair Share Health Care Fund.

(b) Failure to make the payment required under subsection (a) shall result in the imposition by the commissioner of labor and workforce development of a civil penalty of five hundred thousand dollars (\$500,000). The penalties shall be deposited in the Fair Share Health Care Fund.

SECTION 9. The commissioner of commerce and insurance and the commissioner of labor and workforce development are authorized to promulgate necessary rules and regulations in accordance with the uniform administrative procedures act compiled in title 4, chapter 5, to effectuate the purposes of this act.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.